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REMARKS

Turning to the rejections presented in the final Office Action, the Examiner maintains the rejections presented in the prior Office Action of October 30, 2003. Thus, Claims 1-23 were rejected in the final Office Action under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,608,633 B1 to Sciammarella et al. in view of U.S. Patent No. 6,177,931 B1 to Alexander et al. (Office Action ¶2)

In addition, in paragraph 3 of the final Office Action, the Examiner responds to a number of arguments presented in the prior Reply Under 37 C.F.R. 1.111 mailed January 16, 2004.

It is maintained that the remarks given in the prior Reply serve to demonstrate that a prima facie case of obviousness has not been made by the Examiner. Applicants hereby incorporate all of those remarks in this Reply, but for the convenience of the Examiner, Applicants will not repeat them here in detail. Instead, the focus will be placed on the most important and evident shortcomings given in the final Office Action and, in particular, the Examiner's Response to Arguments given in paragraph 3 of the Office Action.

At pages 5-7 of paragraph 3, the final Office Action addresses the argument presented in the prior Reply that the rejection based

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on Sciammarella in view of Alexander as set forth in the Office Action fails to provide all of the independent claim recitations and thus fails to present a prima facie case of obviousness.¹

However, the Examiner's response actually serves to underscore Applicants' prior arguments, not refute them:

The Office Action quotes from lines 1-65 of col. 6 of Sciammarella for purportedly teaching or suggesting the Claim 1 recitations of "obtaining a list of available programs" and "displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score". (Final Office Action, pp. 5-6) First, it is not clear why the Examiner maintains in the Response to Arguments section that this portion of Sciammarella teaches "obtaining a list of available programs", when the original rejection of Claim 1 (at p. 3, lines 3-6 of the final Office Action) acknowledges it does not and then cites to Alexander for this recitation. Moreover, pages 2-4 of the prior Reply argued that the combination of Sciammarella in view of Alexander as set forth in the Office Action failed to teach or suggest the Claim 1

¹ Although the final Office Action cites to pages 6-7 of the 1/16/04 Reply, the arguments pertaining to the failure to provide all of the Claim 1 recitations were in fact presented on pages 2-4 of the prior Reply.

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recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score". That argument was not made with respect to the Claim 1 recitation of "obtaining a list of available programs" in the prior Reply.

In addition, the material cited in the Examiner's response at lines 1-65 of col. 6 of Sciammarella repeatedly refers to display of categories of programming, not available programs. According to this portion of Sciammarella, the category is scaled and located to show the relative importance of the category to a viewer. Figs. 2 and 3 proclaim in their boldest typeface that "Categories" are displayed. In fact, col. 6 of Sciammarella was cited on page 2 of the prior Reply to argue "For example, if a user spends more aggregate time watching movies than sports, display of the category term "movies" may be larger and more centrally located than the display of the category term "sports"."

Thus, the cited portion of Sciammarella speaks for itself, and it is undisputed that it only shows display of categories. Accordingly, Sciammarella fails to teach or suggest at least the Claim 1 recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available

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programs to a user with an indication of one or more program attributes contributing to said recommendation score" (emphasis added).

Further, Alexander is cited with respect to Claim 1 for "obtaining a list of available programs". (Final Office Action, ¶2 at p. 3 (lines 5-6), citing Alexander col. 7 (lines 1-65) and Fig. 3) The Office Action appears to combine the available programs provided in the EPG of Alexander with the category titles as displayed in Sciammarella.² (Final Office Action, p. 3, lines 6-8) However, use of one of Sciammarella's disclosed measurement values to scale and locate titles of categories for display as in Sciammarella, modified by simply matching programs of Alexander adjacent their respective category titles as set forth in the Office Action, also fails to teach or suggest the Claim 1 recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score".

According to MPEP 2142, "[t]he Examiner bears the initial

² It is submitted that the rejection of Claim 1 is largely inconsistent and unclear. It is noted, however, that the Examiner does not express disagreement with this interpretation of the rejection.

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burden of factually supporting any prima facie conclusion of obviousness" and "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness". The combination as set forth in the Office Action fails to provide at least the above-noted recitations of Claim 1. For at least this reason, the Office Action fails to present a prima facie case of obviousness with respect to Claim 1. MPEP 2143.03. Reconsideration and allowance is respectfully requested.

Independent Claims 12 and 20-23 include recitations that provide analogous arguments to those discussed above for Claim 1; thus, the Office Action fails to present a prima facie case of obviousness with respect to Claims 12 and 20-23 at least for reasons analogous to those given above. Reconsideration and allowance of Claims 12 and 20-23 is respectfully requested. Without conceding the patentability per se of dependent Claims 2-11 and 13-19, allowance is respectfully requested by virtue of their dependency on their respective independent claim.

In addition, paragraph 3 (at page 5) of the final Office Action also purportedly "responds" to the argument presented in the prior Reply that an improper rationale is given for combining Scaimmarella and Alexander in the rejection of independent Claim

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1.³ Paragraph 3 of the final Office Action states that "Sciammerella discloses obtaining a recommendation score for each of available programs used in combination of Alexander's obtaining a list of available programs" and that "[o]ne skill in the art would have been obvious in order enhancing a user friendly and enable to provide maximum visual information about categorical information being displayed on a display screen for rating purpose".⁴

First, as argued above and actually demonstrated by the portion cited from Sciammarella cited on pages 5-6 of the final Office Action, Sciammarella refers to categories and does not disclose "obtaining a recommendation score for each of said available programs". Second, the final Office Action's "response" that "[o]ne skill in the art would have been obvious in order enhancing a user friendly and enable to provide maximum visual information about categorical information being displayed on a display screen for rating purpose" basically repeats the original rationale for combination presented in the final Office Action and the 10/30/03 Office Action (p. 3, lines 8-10 of both).

³ Although the final Office Action cites to pages 2-4 of the 1/16/04 Reply, the improper combination arguments were in fact presented on pages 4-6 of the Reply.

⁴ As noted in the prior Reply, this rationale for combining references is also unclear.

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The Response to Arguments thus fails to address the arguments presented in the prior Reply that the rationale given in the Office Action fails to provide a proper basis for combining Sciammarella and Alexander. Among other things, the final Office Action fails to respond to the point that providing particular programs to the display of Sciammarella as set forth in the Office Action would not maximize visual information about *categorical information*. The final Office Action also fails to respond to the point that display of particular programming details would actually obscure or otherwise detract from Sciammarella's use of visual factors to express the degree of importance of one category over another, thus undermining Sciammarella's intended purpose of providing maximum visual information about *categorical information*. (Sciammarella, col. 2, lines 57-59)

Thus, the Office Action does not provide a teaching, suggestion or motivation for combining Sciammarella and Alexander, and in fact presents a rationale that renders Sciammarella unsatisfactory for its intended purpose of providing maximum visual information about *categorical information*. Accordingly, the Office Action also fails to provide a proper rationale for combining or modifying references according to MPEP 2143.01. For at least this additional reason, the Office action fails to present a *prima facie*

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case of obviousness with respect to independent Claim 1 and, by analogous reasoning, independent Claims 12 and 20-23.

Reconsideration and allowance is again respectfully requested.

Again, without conceding the patentability per se of dependent Claims 2-11 and 13-19, allowance is respectfully requested by virtue of their dependency on their respective independent claim.

In view of the above, it is respectfully submitted that Claims 1-23 are in shape for allowance, and allowance is respectfully requested. Should the Examiner believe that a telephone conference would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

By 

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